

REMARKS

The Office Action mailed September 1, 2005 has been carefully considered.

Reconsideration in view of the following remarks is respectfully requested.

The Applicants gratefully acknowledge the indication of allowance of claims 52-71. Applicants are further grateful for the indication of allowability of claims 6-8, 12-13, 19-21, 25-26, 32-34, and 38-39, subject to their re-writing in independent form. Allowed claims 57-59, 60-61, 62-64, 65-66, 67-69, and 70-71 represent claims 6-8, 12-13, 19-21, 25-26, 32-34, and 38-39, respectively, written in independent form including all of the limitations of the base claim and any intervening claims.

Claims 1, 14, and 27 have been amended to further particularly point out and distinctly claim subject matter regarded as the invention. Support for these changes may be found in the specification, page 19, lines 8-12. The text of claims 2-13, 15-26, and 28-51 are unchanged, but their meaning is changed because they depend from amended claims.

The 35 U.S.C. § 102 Rejection

Claims 1-2, 14-15 and 27-28 were rejected under 35 U.S.C. § 102(a) as being allegedly anticipated by Jacobson et al.^{1 2} This rejection is respectfully traversed.

According to the M.P.E.P., a claim is anticipated under 35 U.S.C. § 102(a), (b) and (e)

¹ U.S. Patent No. 6,044,402.

² Office Action dated September 9, 2005, ¶ 3.

only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference.³

Claim 1

Claim 1 as amended recites:

A method for controlling subscriber access in a network capable of establishing connections with a plurality of domains, comprising:
 receiving, at an access server coupled to a first communication network and a second communication network, a communication from a subscriber on said first communication network, said communication optionally including a domain identifier associated with a domain on said second communication network;
 authorizing subscriber access to said domain on said second communication network upon determining said domain identifier is included in a list of authorized domains for a virtual circuit used to receive said communication.

In response to the Applicant's assertion that Jacobson et al. does not teach "determining whether said subscriber is authorized to access said domain based upon said domain identifier and a list of authorized domains for a virtual circuit used to received said communication," the

Examiner states:

... Jacobson teaches a method for controlling subscriber access in a network capable of establishing connections with a plurality of domains, wherein the blocking controller 170 determines whether to block or authorize the connection based on the network access list 212 (i.e., based on a list of authorized domains), and the source and destination addresses which are IP addresses in the connection information set (i.e., and based upon said domain identifier) (Jacobson, C15: L66-67, C16: L1-21 and C18: L42-53).⁴

And in response to the Applicant's assertion that Jacobson et al. does not teach authorized

³ Manual of Patent Examining Procedure (MPEP) § 2131. See also *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987).

⁴ Office Action, ¶ 20.

subscriber access to said domain on said second communication network when said domain identifier is included in said list,” the Examiner states:

... Jacobson teaches the blocking controller determines whether the connection should be allowed/authorized based on the network address access policy in the network access list 212 and whether the source or destination network address 144 or 146 in the connection information set which is the network address of the other host computer is in the network address list. If the source or destination address 144 or 146 is in the network access list, then the connection is to be allowed (Jacobson, C18: L42-53).⁵

The Applicants respectfully disagree. Unlike Claim 1 as amended, Jacobson et al. describes a complex network connection blocking system where host computers are assigned blocking modes (see col. 14, lines 41-45). These blocking modes may be overridden by a blocking override table (see col. 15, lines 16-20). The blocking override policies "override the network address and protocol blocking policies that are identified by the network address block list 202 and the remote and local protocol block lists 204 and 206 for all of the protected host computers in the subnet 102-1." (Col. 15, lines 21-26).

The Applicants respectfully suggest the Examiner's attempt to equate the source network address list of Jacobson et al. with the "list of authorized domains for a virtual circuit used to receive said communication" is improper. Jacobson et al. describes determining when the source network address is listed in the blocking mode table⁶, when the source network address is not listed in the blocking mode table and the destination network address is in the blocking mode table⁷, when the source network address is listed in the blocking mode table but the connection is

⁵ Office Action, ¶ 20.

⁶ Jacobson et al., col. 16 ll. 21-39.

⁷ Jacobson et al., col. 16 ll. 40-52.

allowed for the protected host computer with the source network address⁸, when the destination network address is in the blocking mode table⁹, etc. But Jacobson et al. fails to describe simply authorizing subscriber access to said domain on said second communication network *upon determining* said domain identifier is included in a list of authorized domains for a virtual circuit used to receive said communication, said authorizing responsive to said receiving, as recited in claim 1. The Examiner is reminded that the mere absence from a reference of an explicit requirement of a claim cannot be reasonably construed as an affirmative statement that the requirement is in the reference.¹⁰

Jacobson et al. states further:

... the blocking data structure 192 includes a network address access list 212 that identifies the network address access policy for all of the protected host computers 104-1 that have been assigned the restricted mode. As shown in FIG. 13, the network address access list is a list of the network addresses of the protected and remote host computers 104-1 and 104-2 for which a connection will *only* be allowed if it has an endpoint at one of these host computers *and* an endpoint at one of the protected host computers that has been assigned the restricted mode.¹¹ (emphasis added)

Thus, Jacobson et al. uses the network address access list in determining whether a connection has an end point at one of multiple host computers *and* an end point at one of multiple protected host computers that has been assigned a restricted mode. This is in contrast to Claim 1 as amended, which recites authorizing subscriber access to said domain on said second communication network *upon determining* said domain identifier is included in a list of authorized domains for a virtual circuit used to receive said communication.

⁸ Jacobson et al., col. 16 ll. 53-63.

⁹ Jacobson et al., col. 16 l. 64 to col. 17 l. 9.

¹⁰ *In re Evanega*, 829 F.2d 1110, 4 USPQ2d 1249 (Fed. Cir. 1987).

¹¹ Jacobson et al., col. 15 l. 66 to col. 16 l. 8.

And unlike Claim 1, Jacobson et al. teaches whether to block a connection based upon the examination of *several* lists and other data structures. Jacobson et al. states:

... the blocking controller 170 determines whether to block the connection based on the connection information set and the blocking data structure 192. This is done in the following manner using the blocking mode table 200, the network address block list 202, the remote and local protocol block lists 204 and 206, the override table 208, the override protocol lists 210, and the network address access list 212 of the blocking data structure and the source and destination network addresses and the source and destination service access addresses 124 and 126 in the connection information set.¹²

Such a lengthy list of items to check to determine access is noticeably absent from Claim 1 as amended.

Furthermore, Jacobson et al. teaches initially determining whether the blocking mode for the protected host computer is in a restricted mode. Only after this first determination does Jacobson et al. teach determining whether a connection should be allowed based on the network address policy in the network address list. Jacobson et al. states:

However, if the blocking controller 170 initially determines that the blocking mode for the protected host computer 104-1 is the restricted mode, then the blocking controller determines whether the connection should be allowed based on the network address access *policy* in the network address access list 212. In order to do so, the blocking controller determines whether the source or destination network address 144 or 146 in the connection information set which is the network address of the other host computer is in the network address access list. If it is, then this means that the connection is to be allowed. But, if it is not, this means the connection is to be blocked.¹³

This requirement to determine a blocking mode is also noticeably absent from Claim 1 as amended.

¹² Jacobson et al., col. 16 ll. 10-20.

¹³ Jacobson et al., col. 18 ll. 42-53.

With this Amendment, Claim 1 has been modified to make these distinctions more clear.

For these reasons, the Applicants respectfully maintain that claim 1 is now in condition for allowance. Claims 14 and 27 contain similar limitations as claim 1, and hence the Applicants respectfully maintain that these claims are also in condition for allowance. As to dependent claims 2-13, 15-26, and 28-39, the argument set forth above is equally applicable here. The base claims being allowable, the dependent claims must also be allowable.

The 35 U.S.C. § 103 Rejection

Claims 3-5, 9-11, 16-18, 22-24, 29-31, 35-37 and 40-51 were rejected under 35 U.S.C. § 103(a) as being allegedly unpatentable over Jacobson in view of Loehndorf, Jr. et al.,¹⁴ among which claims 40 and 46 are independent claims.¹⁵ This rejection is respectfully traversed.

According to the Manual of Patent Examining Procedure (M.P.E.P.),

To establish a *prima facie* case of obviousness, three basic criteria must be met. First there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations. The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art, not in the applicant's disclosure.¹⁶

Claims 3-5 and 9-11 depend from claim 1 and thus include the limitations of claim 1.

The arguments made above with respect to claim 1 apply here as well. The 35 U.S.C. § 102 rejection of claim 1 based on Jacobson et al. is unsupported by the art, as each and every element

¹⁴ U.S. Patent No. 6,094,437.

¹⁵ Office Action ¶ 9.

¹⁶ M.P.E.P § 2143.

as set forth in claim 1 is not found in Jacobson et al. Therefore, the 35 U.S.C. § 103 rejection of dependent claims 3-5 and 9-11 based on Jacobson et al. in view of Loehndorf, Jr. et al. is also unsupported by the art. Thus, no prima facie case of obviousness has been established and the 35 U.S.C. § 103 rejection should be withdrawn.

Claims 16-18 and 22-24

Claims 16-18 and 22-24 are program storage device claims corresponding to method claims 3-5 and 9-11, respectively. Claims 3-5 and 9-11 being allowable, claims 16-18 and 22-24 must be allowable for at least the same reasons.

Claims 29-31 and 35-37

Claims 29-31 and 35-37 are means-plus-function claims corresponding to method claims 3-5 and 9-11, respectively. Claims 3-5 and 9-11 being allowable, claims 29-31 and 35-37 must be allowable for at least the same reasons.

Claims 40-51

Claims 40-51 are access server claims including limitations similar to method claims 3-5 and 9-11. Claims 3-5 and 9-11 being allowable, claims 40-51 must also be allowable for at least the same reasons.

In view of the foregoing, it is respectfully asserted that the claims are now in condition for allowance.

Request for Entry of Amendment

Entry of this Amendment will place the Application in better condition for allowance, or at the least, narrow any issues for an appeal. Accordingly, entry of this Amendment is appropriate and is respectfully requested.

Conclusion

It is believed that this Amendment places the above-identified patent application into condition for allowance. Early favorable consideration of this Amendment is earnestly solicited.

Allowable Subject Matter

The Examiner is thanked for the kind allowance of claims 52-71, and in finding allowable subject matter in claims 6-8, 12-13, 19-21, 25-26, 32-34, and 38-39 if rewritten in independent form including all of the limitations of the base claim and any intervening claims. Allowed claims 57-59, 60-61, 62-64, 65-66, 67-69, and 70-71 represent claims 6-8, 12-13, 19-21, 25-26, 32-34, and 38-39, respectively, written in independent form including all of the limitations of the base claim and any intervening claims. The Applicants acknowledge the Examiner's statement of reasons for allowance as set forth in the Office Action. However, the Applicants point out that the reasons for allowability of the above referenced claims are not limited to the reasons for allowance as set forth in the Office Action, and that additional reasons for allowability may exist, each of which may be independently sufficient to establish the patentability of one or more pending claims.

The Applicants respectfully reserve the right to introduce, articulate, or otherwise comment on any such additional reasons for allowance as may be appropriate in any future proceedings concerning the claimed invention.

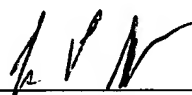
If, in the opinion of the Examiner, an interview would expedite the prosecution of this application, the Examiner is invited to call the undersigned attorney at the number indicated below.

The Applicants respectfully request that a timely Notice of Allowance be issued in this case.

Please charge any additional required fee or credit any overpayment not otherwise paid or credited to our deposit account No. 50-1698.

Respectfully submitted,

THELEN REID & PRIEST, LLP



John P. Schaub
Reg. No. 42,125

Dated: February 1, 2006

Thelen Reid & Priest LLP
P.O. Box 640640
San Jose, CA 95164-0640
Tel. (408) 292-5800
Fax. (408) 287-8040